

It is my understanding, too, that the President has the authority both to spend money that is in the pipeline to help these flood victims, so that the case that has been made this week is without merit. As Commander in Chief, he could send our troops and military and others and our dollars into this affected area to help those folks. That is the rest of the story.

CAPITAL GAINS TAX RELIEF IMPORTANT FOR AMERICAN ECONOMY

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, as we have watched the Committee on Ways and Means proceed with its markup, I think it is very important for us to recognize that the plan to reduce the top rate on capital gains is in fact not a tax cut for the rich, as many on the other side of the aisle and some harsh critics have said in the past.

If we are to reduce the top rate on capital gains significantly, we can actually increase the take-home pay of the average family of four by \$1,500 a year. That itself is a very important tax cut; it will in fact benefit working Americans.

We also have to look at the fact that reducing the top rate on capital gains is not going to cost the Government a nickel. In fact, it is going to gain revenues to the Federal Treasury. How do we know that? Every single time that it has been done, from 1921 under President Warren G. Harding all the way to 1981 under President Ronald Reagan, reducing that top rate, in fact, expands the pie and generates an increased flow of revenues to the Federal Treasury. Reducing the capital gains tax is a very important part of this package. We need to move ahead with it.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 54, PROHIBITING THE PHYSICAL DESECRATION OF THE FLAG OF THE UNITED STATES

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 163 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 163

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 54) proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States. The joint resolution shall be considered as read for amendment. The joint resolution shall be debatable for two hours equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one mo-

tion to recommit. The motion to recommit may include instructions only if offered by the minority leader or his designee. If including instructions, the motion to recommit shall be debatable for one hour equally divided and controlled by the proponent and an opponent.

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this rule provides a fair and a reasonable way to consider the proposed constitutional amendment to allow this Congress to prohibit the physical desecration of the flag of the United States of America. Let me go through the steps that we will follow.

First, there is 1 hour of debate on this rule, which is equally divided between the majority side and the minority side. After voting on the rule, there will then be 2 hours of debate on the proposed constitutional amendment. That time is equally divided between the chairman and ranking minority member of the Committee on the Judiciary, who happen to be on different sides of this issue, although this is a bipartisan piece of legislation offered here today.

Then the rule allows for a motion to recommit, which may include instructions if offered by the minority leader or his designee.

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This would be the opportunity for the minority or those in opposition, since many of the minority are cosponsors of this legislation, it would allow those in opposition to offer an amendment or a substitute and have it voted on in this House.

Mr. Speaker, as we begin this debate, I would like to provide some background on how we got here today, and it is a shame that we even have to be here.

Prior to the Supreme Court decision in Texas versus Johnson in 1989, 48 States and the Federal Government had laws on the books prohibiting the desecration of the American flag.

In the Johnson case the Supreme Court held by a bare 5 to 4 margin that the burning of an American flag as part of a political demonstration was expressive conduct protected by the first amendment to the Constitution.

In response to the Johnson decision, Congress passed the Flag Protection Act of 1989 under suspension of the rules by a record vote of 380 to 38.

Then in 1990, in the case of the United States versus Eichman the Supreme Court in another 5 to 4 decision struck down this statute, ruling that it infringed on expressive conduct protected by the first amendment.

Within days, the House responded by scheduling consideration of a constitu-

tional amendment to protect the flag from physical desecration. The amendment received support from a substantial majority of the House, but unfortunately fell short of the necessary two-thirds vote for a constitutional amendment. The vote at that time was 254 to 177.

Subsequently, Mr. Speaker, 49 States have passed resolutions calling on Congress to pass an amendment to protect the flag of the United States of America. In here are the resolutions of those 49 States.

Subsequently, in the last Congress, we mounted a new effort to pass a constitutional amendment to protect the flag against physical desecration. We were successful in achieving the required two-thirds vote in the House for the first time on this constitutional amendment. The vote then was 312 to 120, and that was substantially higher, 22 votes higher than even needed to amend the Constitution.

Unfortunately, the Senate fell just a few votes short of the needed two-thirds. The vote there was 63 to 36, and consequently the amendment was never put out to the American people to ratify.

Now we are set to begin the final push to victory, my colleagues, in order to try to pick up the few extra votes needed in the Senate. The language of the amendment offered this year is significantly different from the 1990 and 1995 versions, and this is important for Members to pay attention to, especially over in the other body, because many of those that voted against it last time voted against it because it contained a provision which allowed individual States to pass laws prohibiting the physical desecration of the American flag. Those versions provided that the Congress and the States shall have power to prohibit the physical desecration of the flag of the United States.

The version introduced, that I introduced this year, deletes the words "and the States" so that only Congress will have the power to prohibit physical desecration of the flag. This eliminates the concern of those who might have voted against it in years past that were worried about possible confusion which could be caused by different laws in each State.

Now, if this is adopted, there will only be one national law dealing with this issue. Since the whole purpose of this constitutional amendment is to protect the national flag, it makes sense, I guess, that there be a national policy to achieve that goal.

Mr. Speaker, none of us undertake this lightly. The Constitution is a document that has stood the test of time over two centuries. The Founding Fathers wisely made it very difficult to amend this Constitution of ours. Our goal then is not really to change the Constitution. Our goal is to restore the Constitution to the way it was for the first 200 years of this great Nation of ours, up until 1989. And had the Supreme Court not suddenly reinvented